

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

JOHN FLOWERS,

*Petitioner,*

vs.

WARDEN, *et al.*,

*Respondents.*

3:10-cv-00367-ECR-VPC

ORDER

This habeas matter under 28 U.S.C. § 2254 comes before the Court following upon the notice (#14) of appearance by counsel with the Federal Public Defender, and further on the Court's still-pending initial review under Rule 4 of the Rules Governing Section 2254 Cases. As per the prior order (#5), the Court *sua sponte* raises the issue of whether the petition is subject to dismissal as time-barred. Petitioner, through counsel, will be directed to show cause why the petition should not be dismissed with prejudice as untimely.

IT THEREFORE IS ORDERED that the Federal Public Defender's Office is appointed as counsel for petitioner pursuant to 18 U.S.C. § 3006A(a)(2)(B), with Paul G. Turner, Esq., appearing as petitioner's counsel of record.

IT FURTHER IS ORDERED that petitioner's second motion (#12) for appointment of counsel, which apparently crossed in the mail with the Court's earlier order granting his first motion, is DENIED as moot.

IT FURTHER IS ORDERED that, taking into account the amount of investigation that likely will be necessary, petitioner shall have until up to and including one hundred twenty

1 (120) days from entry of this order to SHOW CAUSE, with specific competent supporting  
2 evidence, why the petition should not be dismissed with prejudice as time-barred. If  
3 petitioner's counsel instead wishes to amend the petition and/or to seek other relief prior to  
4 responding to the show cause order, counsel shall request a modification of the scheduling  
5 order and/or such other relief by the 120-day response deadline. Nothing in the Court's orders  
6 halts the running of the federal limitation period as to the petition or any claim absent an  
7 express direction to that effect.

8 Respondents may respond to the show cause response, but they are not required to  
9 do so. The case remains in initial review under Rule 4, and no further response by  
10 respondents shall be required until further order of the Court. If respondents elect to file a  
11 response, they may do so no later than thirty (30) days from service of the show cause  
12 response. Petitioner then shall have twenty (20) days from service of the response within  
13 which to file a reply.

14 The Clerk shall send a copy of this order to the CJA Coordinator for this Division.

15 DATED: August 2, 2010

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EDWARD C. REED  
United States District Judge